IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 31072 of 2006(Y)

PETITIONER:

K.P.CHERIYAN,
AGED 55 YEARS, S/O.K.C.POULOSE,
WORKER GRADE I, OFFICE OF THE CHIEF ENGINEER,
PWD, ROAD DIVISION, TRICHUR, NOW UNDER THE ALLEGED
RETIREMENT, KURUMATTATHU HOUSE,
PATTIKKAD - 680 652.

BY ADV. SRI.M.P.KRISHNAN NAIR
SRI.ANIYANKUNJU VARGHESE

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SECRETARY,
PWD (ROADS),, THIRUVANANTHAPURAM.

3. CHIEF ENGINEER,
PWD (ROADS DIVISION), THIRUVANANTHAPURAM.

4. EXECUTIVE ENGINEER,
PWD, ROAD DIVISION, TRICHUR.

5. ASSISTANT ENGINEER,
PWD ROADS SECTION,
PUZHAKKAL, CHEMBUKUNNU, TRICHUR.

6. ACCOUNTANT GENERAL,
THIRUVNANTHAPURAM.

BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:

EXT.P1- A TRUE EXTRACT OF ORDER NO.A1E/889/98 DATED 17-3-2001.

EXT.P2- TRUE COPY OF ORDER NO.EE1.49461/88 DATED 8-6-90.

EXT.P3- TRUE COPY OF HTE LETTER NO.A11 DATED 9-10-2006.

EXT.P4-TRUE COPY OF HTE LETTER NO.P06/PRELY/53/E06-07/695 DATED 27-10-2006.

EXT.P5- TRUE COPY OF ORDER NO.P41/06 DATED 31-10-2006.

EXT.P6- TRUE COPY OF THE JUDGMENT DATED 9-12-96 IN OP.9710/96E OF THE HON'BLE HIGH COURT.

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 31072 of 2006-Y

Dated this the 2nd day of July, 2007.

J U D G M E N T

The petitioner claims retention in service till he attains the age of 58. The brief facts of the case are the following:-

The petitioner commenced CLR service on 21-11-1969. He was regularised in service on 3-7-1990. In support of this submission, the petitioner relies on Ext.P1. It is not in dispute that persons in CLR service as on 7-4-1970 and who are regularised are entitled to continue upto the age of 58. But, the respondents dispute the claim of the petitioner. A counter affidavit has been filed on behalf of the first respondent, in which it is submitted that the petitioner has been granted Higher Grade after 16 years continuous service on 3-7-1990. So, it is contended that the petitioner must have commenced CLR service on 3-7-1974.

2. Heard. The first respondent does not dispute the genuineness of Ext.P1 which is a preliminary evidence to show that he commenced service with effect from 21-11-1969. In view of the above position, the indirect calculation made by the first respondent in the counter affidavit cannot be relied on.

In the result, the Writ Petition is allowed. The petitioner shall be reinstated in service within continuity of service and back wages and shall be

allowed to retain in service, till he attains the age of 58.

K.BALAKRISHNAN NAIR,
JUDGE.

MS